

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jesse Spieler-Jones	Team: Team # 5	CCRB Case #: 200913883	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 09/04/2009 11:30 PM, Saturday, 09/05/2009	Location of Incident: outside 45 Rutgers Street and inside the PSA 4 stationhouse	Precinct: 07	18 Mo. SOL 3/4/2011	EO SOL 3/4/2011	
Date/Time CV Reported Tue, 09/08/2009 1:52 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 09/08/2009 1:52 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Orvin Feliciano	22257	942855	HBM IRT
3. POM Victor Velez	22869	943924	HBM IRT
4. LT Thomas Buzzitta	00000	903522	HBM IRT
5. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Audeliz Beauchamp	01510	942984	HBM IRT
2. POM Thomas Polacik	14096	944902	HBM IRT
3. SGT Timothy Goode	02284	923899	PSA 4
4. SGT Natasha Friday	02561	928322	HBM IRT
5. SGT Jack Ng	00818	934941	007 PCT
6. POM Mathew Worrell	09395	939712	HBM IRT
7. POM Essence Jackson	10248	938703	HBM IRT
8. POM Francisco Jacquez	05549	938707	HBM IRT

Officer(s)	Allegation	Investigator Recommendation
A.POM Orvin Feliciano	Force: In the vicinity of 45 Rutgers Street in Manhattan, PO Orvin Feliciano used physical force against § 87(2)(b)	
B.POM Victor Velez	Force: In the vicinity of 45 Rutgers Street in Manhattan, PO Victor Velez used physical force against § 87(2)(b)	
C. Officers	Force: In the vicinity of 45 Rutgers Street in Manhattan, officers used physical force against § 87(2)(b) and § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D. An officer	Force: In the vicinity of 45 Rutgers Street in Manhattan, an officer tightly handcuffed § 87(2)(b)	
E.LT Thomas Buzzitta	Force: Inside the PSA 4 stationhouse, Lt. Thomas Buzzitta used physical force against § 87(2)(b)	

Case Summary

§ 87(2)(b) and § 87(2)(b) filed this complaint in-person with the CCRB on September 8, 2009 (encl. 7A-8D). On September 4, 2009, at approximately 11:30 p.m., § 87(2)(b) encountered PO Audeliz Beauchamp while she was effecting the arrest of § 87(2)(b). A physical altercation then took place involving § 87(2)(b) and numerous officers. The following allegations resulted:

- **Allegations A and B – Force:** In the vicinity of 45 Rutgers Street in Manhattan, PO Orvin Feliciano and PO Victor Velez used force against § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation C – Force:** In the vicinity of 45 Rutgers Street in Manhattan, officers used physical force against § 87(2)(b) and § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
- **Allegation D – Force:** In the vicinity of 45 Rutgers Street in Manhattan, an officer tightened § 87(2)(b)'s handcuffs. § 87(2)(g)
§ 87(2)(b)
- **Allegation E – Force:** Inside the PSA 4 stationhouse, Lieutenant Thomas Buzzita used physical force against § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

- § 87(2)(b)
§ 87(2)(b)

Testimony

§ 87(2)(b) made statements regarding this incident to medical personnel at § 87(2)(b) immediately following the incident on September 5, 2009 (encl. 36A-I), in filing his complaint in-person at the CCRB as a walk-in complainant on September 8, 2009 (encl. 7A-8D), and over the telephone on September 15, 2009 (encl. 9K).

On September 4, 2009, at approximately 11:30 p.m., § 87(2)(b) was walking through the LaGuardia Housing Projects on his way to his brother's apartment when he noticed two uniformed officers, a uniformed white male who § 87(2)(b) provided only a generic description of and a uniformed Hispanic female who was identified by the CCRB as PO Audeliz Beauchamp, standing near a young Hispanic male, identified by the CCRB as § 87(2)(b) who was handcuffed. PO Beauchamp ordered § 87(2)(b) to produce his ID. When § 87(2)(b) attempted to provide his ID to PO Beauchamp, PO Beauchamp declined to examine it and called for backup. She did not indicate why this was necessary. Approximately two seconds later, two uniformed males, one with short hair and the other with a slim build, both of whom § 87(2)(b) provided only generic descriptions of, arrived in a marked police car. § 87(2)(b) remained where he was. The two officers from the car grabbed § 87(2)(b)'s arms and pushed him forward as one of the officers § 87(2)(b) did not know which one) tripped him to the ground. Both officers knelt § 87(2)(b) in the back and the slim officer told § 87(2)(b) to stop resisting and punched him on the left side of the face approximately five times. Through this struggle, § 87(2)(b) made no attempt whatsoever to resist the

officers and did not even move his arms.

At this time, § 87(2)(b) saw an acquaintance of his, § 87(2)(b) approximately 30-40 feet away. § 87(2)(b) who had not been with § 87(2)(b) prior to this time, was telling the officers to stop hurting § 87(2)(b). PO Beauchamp made a second call for backup. Within seconds, § 87(2)(b) saw an additional 11-12 officers running towards him. The short-haired officer who was holding § 87(2)(b) called for more backup. Four officers who § 87(2)(b) could not describe then punched and kicked him all over his body. In total, § 87(2)(b) was struck approximately 20-25 times, mostly by punches to his face.

A group of four to six officers who § 87(2)(b) could not provide specific descriptions of then approached § 87(2)(b). A white male in plainclothes punched § 87(2)(b) in the right side of his face. Four uniformed officers then punched, kicked and kned § 87(2)(b). § 87(2)(b)'s view of this was obstructed by the officers' bodies. One of these officers stomped on § 87(2)(b) and twisted his leg. § 87(2)(b) saw the plainclothes officer punch and kick § 87(2)(b) on the back of his head and his lower neck. Both § 87(2)(b) and § 87(2)(b) were then handcuffed.

§ 87(2)(b) was escorted to a marked police vehicle by a uniformed white male, identified by the CCRB as PO Thomas Polacik, and a uniformed Hispanic male who he could not describe further. Before placing § 87(2)(b) inside the vehicle, one of the officers – § 87(2)(b) could not see who – intentionally tightened his handcuffs. § 87(2)(b) stated during his interview that one of the officers called him an asshole and said, “Fuck you”; however, in a telephone statement just a week after his interview, § 87(2)(b) withdrew this allegation and denied that he had ever made it. The Hispanic male then punched § 87(2)(b) in the stomach. Upon entering the RMP, § 87(2)(b) vomited. PO Polacik and the Hispanic male officer then drove him to the stationhouse.

While § 87(2)(b) was in a holding cell at the stationhouse, two uniformed males, identified by the CCRB as PO Essence Jackson and PO Francisco Jacquez, took off his handcuffs and told him to remove his shoes and clap them together, which § 87(2)(b) began to do. One of the officers then grabbed § 87(2)(b)'s wrists, forced them behind his back, pushed him to the ground and handcuffed him. Officers identified by the CCRB as Lt. Thomas Buzzita and Sgt. Timothy Goode ran into the holding cell. While officers held § 87(2)(b) down, Lt. Buzzita stomped on and kicked his neck an unknown number of times. § 87(2)(b) did not resist the officers. § 87(2)(b) was then left in the holding cell. Shortly thereafter, PO Polacik escorted § 87(2)(b) to Beth Israel Medical Center, at which time § 87(2)(b) informed medical personnel that, during an altercation with police officers, he sustained a punch to the face and a “foot to the neck.”

§ 87(2)(b) suffered the following injuries: a crack tooth, lacerations and scrapes on his right hip, his elbows, his knees and his back, and bruises on his wrists, back head, upper left eye socket and eyelid. § 87(2)(b) informed the undersigned that he has been diagnosed as “emotionally disturbed” by his personal psychiatrist.

CCRB Interview Photographs (encl. 9G-I)

Photographs of § 87(2)(b) that were taken by the undersigned approximately three and a half days after the incident show no visible injuries to his face or wrists, and a small bruise on his hip.

Victim: § 87(2)(b)

- § 87(2)(b)

Testimony

§ 87(2)(b) made statements regarding this incident in filing his complaint in person at the CCRB on September 8, 2009 (encl. 7A-8D) and over the telephone on January 27, 2010 (encl. 11A-B). Additions to and inconsistencies with § 87(2)(b)'s statement are summarized below.

§ 87(2)(b) was walking through the LaGuardia Housing projects when he saw § 87(2)(b) involved in

a physical altercation with officers. Although § 87(2)(b) stated that two officers were making contact with § 87(2)(b) at this time, he made inconsistent statements regarding how many officers were on the scene, whether or not § 87(2)(b) had already been handcuffed and what kind of contact was being made. Although he stated in his telephone statement that these officers struck § 87(2)(b) and that one of them choked him, he made no mention of this in his sworn statement. PO Beauchamp then called for backup, which arrived shortly thereafter. § 87(2)(b) provided generic and conflicting physical descriptions of these officers and made inconsistent statements regarding the number and kinds of vehicles that arrived.

A female officer who § 87(2)(b) provided generic and conflicting physical descriptions of then told § 87(2)(b) “Leave now or you’ll be arrested.” Another officer said, “Leave now, or you’ll be the same way.” As § 87(2)(b) began to walk away, the female officer, a uniformed male officer who § 87(2)(b) provided a generic description of and a black male officer in plainclothes all pushed § 87(2)(b). The plainclothes officer attempted to punch § 87(2)(b) but missed. Eight or nine officers who § 87(2)(b) could not describe then surrounded him and accused him of resisting arrest. An officer who § 87(2)(b) could not see grabbed his right arm and pushed him to the ground. § 87(2)(b) was then handcuffed. Several officers who § 87(2)(b) could not provide specific descriptions of then began to kick him. Although § 87(2)(b) stated during his interview that one of these officers was wearing a white shirt, he later clarified that he did not see this officer kick him. § 87(2)(b) initially stated that an officer literally jumped on his leg but later stated that this officer simply put his weight on § 87(2)(b) lower back and legs. § 87(2)(b) heard the voice of his sister, § 87(2)(b) telling the officers that he has a bad ankle.

When § 87(2)(b) was arrested and brought to PSA 4, he was placed in a holding cell next to § 87(2)(b). Although he heard the physical altercation described by § 87(2)(b) he was unable to see it from his cell.

Witness: § 87(2)(b)

- § 87(2)(b)

Testimony

§ 87(2)(b) provided a telephone statement on December 8, 2009 (encl. 12A-B). She subsequently did not cooperate with the investigation’s attempts to obtain a sworn statement from her. § 87(2)(g)

§ 87(2)(b) Additions and inconsistencies are noted below.

Before § 87(2)(b) was struck or grabbed, an officer informed him that he was under arrest. § 87(2)(b) informed the officer that he would not be moving. A plainclothes officer then grabbed § 87(2)(b) and informed him that he was under arrest. § 87(2)(b) began to dispute this arrest. Several officers ordered § 87(2)(b) to turn around, but § 87(2)(b) did not comply. The plainclothes officer and ten officers, both uniformed and in plainclothes, who § 87(2)(b) could not provide specific descriptions of began to strike § 87(2)(b) who resisted the officers’ attempts to move him to the ground. When officers escorted § 87(2)(b) to the patrol car, § 87(2)(b) noticed that he was visibly intoxicated and was slurring his words. § 87(2)(b) left the scene before § 87(2)(b) reached the patrol cars.

Attempts to Contact Civilians

NYPD documentation indicated that the following individuals were in holding cells at the time that § 87(2)(b)’s altercation in the holding cell took place: § 87(2)(b) and § 87(2)(b). However, the investigation’s attempts at contacting these individuals were unsuccessful. § 87(2)(b) was not available to provide a statement.

NYPD Statements:

Subject Officer: PO AUDELIZ BEAUCHAMP

- PO Beauchamp is a § 87(2)(b)-old Hispanic female who is 5’3” tall, weighs 140 lbs and has brown hair and brown eyes.

- *On the date of the incident, PO Beauchamp was assigned to uniformed foot patrol with PO Velez and PO Feliciano from 6:00 p.m. to 2:35 a.m.*

Memo Book (encl. 13A-C)

On September 5, 2009 at 12:22 a.m., PO Beauchamp arrested three males for disorderly conduct, resisting arrest and OGA. At 12:45 a.m., she arrived at the stationhouse.

UF-61 for Incident and OLBS for § 87(2)(b) and § 87(2)(b) (encl. 14A-17C)
Criminal Complaint Reports for § 87(2)(b) and § 87(2)(b) (encl. 18A-C)

§ 87(2)(b) cursed at and pushed a police officer. When officers attempted to arrest § 87(2)(b) and § 87(2)(b) attempted to interfere and fought with the officers. All three individuals resisted arrest by twisting away, refusing to place their hands behind their backs and flailing their arms. They were all charged with resisting arrest and disorderly conduct; § 87(2)(b) and § 87(2)(b) were additionally charged with obstructing governmental administration.

Testimony

PO Beauchamp was interviewed at the CCRB on February 17, 2010 (encl. 19A-D). Before the incident, PO Beauchamp had previously made arrests for marijuana in the vicinity of 45 Rutgers Street and understood it to be a drug-prone location. On September 4, 2009, at approximately 11:40 p.m., PO Beauchamp, PO Feliciano and PO Velez were patrolling in the vicinity of 45 Rutgers Street when they noticed the smell of marijuana coming from the vicinity of a group of approximately 15 individuals who were sitting on benches nearby. As the officers approached the benches, members of the group noticed them and appeared to become nervous. An unidentified member of the group threw a small object that PO Beauchamp could not describe at the time of her interview. Although PO Beauchamp never recovered this object, she suspected it to be marijuana at the time.

As the officers approached, PO Beauchamp asked the entire group to show their IDs. One member of the group, identified by the CCRB as § 87(2)(b) refused and called PO Velez a “nigger.” PO Velez then handcuffed § 87(2)(b) who was compliant. However, another member of the group, identified by PO Beauchamp as § 87(2)(b) became upset that § 87(2)(b) had been handcuffed and began to protest this. Because § 87(2)(b) was four feet away from § 87(2)(b) at the time, all three officers repeatedly ordered him to back up; however, he did not comply. While PO Beauchamp was focusing on § 87(2)(b) § 87(2)(b) began fighting with PO Velez and PO Feliciano. PO Beauchamp did not see how this fight began. She saw § 87(2)(b) and the officers attempting to strike each other but could not recall if any blows were landed. At this time, PO Beauchamp was unable to assist her partners because she had to maintain custody of § 87(2)(b). As the struggle between the officers and § 87(2)(b) moved to the ground, § 87(2)(b) continued to attempt to strike them. PO Velez and PO Feliciano stopped attempting to strike § 87(2)(b) and focused on attempting to handcuff him as he rolled around. As a crowd formed, the officers ordered members of the crowd to disperse. The crowd was not doing anything in particular to make PO Beauchamp fear for her safety at this time. § 87(2)(b) was a member of this crowd. Because her partners were still struggling with § 87(2)(b) PO Beauchamp called for backup. She did not witness the officers or § 87(2)(b) attempting to strike each other after this time.

Two minutes later, officers from several different commands responded. PO Beauchamp could not recall how many commands, vehicles or officers there were in total. Responding officers ordered the crowd to disperse but the crowd did not comply. PO Beauchamp then saw § 87(2)(b) attempting to punch several officers while the officers attempted to restrain him. PO Beauchamp did not see how this fight began and could not recall who these officers were. Officers ultimately brought § 87(2)(b) to the ground and restrained him. PO Beauchamp did not see any officers strike § 87(2)(b) before he was brought to the ground but, after he was brought to the ground, she was unable to see exactly what was happening. Although Lt. Buzzita, PO Worrell and Sgt. Friday ultimately arrived on the scene, PO Beauchamp never saw them

interacting with any civilians in particular. Neither PO Beauchamp nor any other officer said anything to the effect of “Leave now or you’ll be arrested” or “Leave now or you’ll be the same way.” She never saw any officer do anything that could have caused injury to § 87(2)(b) leg. § 87(2)(b) and § 87(2)(b) were all ultimately arrested and taken to the stationhouse.

When PO Beauchamp arrived at the stationhouse, the arrested individuals were inside holding cells. PO Jacquez and PO Jackson were watching § 87(2)(b) remove his shoes. PO Beauchamp could not recall exactly where she was at this time besides that she was in the vicinity of the holding cell area. PO Beauchamp then heard a commotion in § 87(2)(b)’s holding cell. When she entered it, she saw POs Jackson and Jacquez struggling to handcuff § 87(2)(b) who was on the ground. Neither officer struck § 87(2)(b). Although PO Beauchamp believed that the officers then moved § 87(2)(b) to a second holding cell to isolate him from other prisoners, she could not actually recall if he had been alone in the first cell. Inside the second cell, § 87(2)(b) continued to scream as POs Jackson and Jacquez attempted to hold him on the ground while PO Beauchamp held his legs. Lt. Thomas Buzzita and an officer identified by the CCRB as Sgt. Goode then entered the cell. Lt. Buzzita attempted to restrain § 87(2)(b) but never struck him. PO Beauchamp could not recall if Lt. Buzzita put his foot on § 87(2)(b)’s neck. Once § 87(2)(b) was handcuffed, the officers left the cell.

Subject Officer: PO ORVIN FELICIANO

- PO Feliciano is a § 87(2)(b)-old Hispanic male who is 5’8” tall, weighs 170 lbs and has black hair and brown eyes.
- On the date of the incident, PO Feliciano was assigned to uniformed foot patrol with PO Beauchamp and PO Velez from 6:00 p.m. to 2:35 a.m.

Memo Book (encl. 22A-C)

On September 5, 2009 at 12:32 a.m., PO Beauchamp made three arrests.

Testimony

PO Feliciano was interviewed by the CCRB on March 25, 2010 (encl. 23A-B). § 87(2)(g)

§ 87(2)(b) Additions and inconsistencies are summarized below.

As the officers approached the group on the benches, PO Feliciano observed that they were drinking and making a lot of noise. PO Feliciano did not see anyone drop or throw any objects. When PO Velez asked the individuals nearest to an open container of Hennessy to provide their IDs, § 87(2)(b) who was one of these individuals, began cursing at PO Velez, stood up and started to walk away. PO Velez then attempted to place § 87(2)(b) under arrest for disorderly conduct. Although § 87(2)(b) refused to provide one of his hands, PO Beauchamp assisted PO Velez in handcuffing him. PO Feliciano did not hear PO Beauchamp request anyone’s ID. Another member of the group, identified by the CCRB as § 87(2)(b) then lunged at PO Feliciano and grabbed his jacket. Both PO Feliciano and § 87(2)(b) fell to the ground and other members of the group began to throw bottles at the officers. Shortly after PO Beauchamp called for assistance, officers who PO Feliciano could not describe or identify assisted him in handcuffing § 87(2)(b). No officer struck § 87(2)(b) at any time. PO Feliciano was unable to provide a detailed account of § 87(2)(b) arrests and stated only that he was handcuffed after he refused to comply with officers’ orders to move back. He did not see any officers tighten § 87(2)(b)’s handcuffs and denied making or hearing any officer make the threats of arrest alleged. He did not witness the altercation in the stationhouse.

Subject Officer: PO VICTOR VELEZ

- PO Velez is a § 87(2)(b)-old Hispanic male who is 5’8” tall, weighs 190 lbs and has brown hair and brown eyes.
- On the date of the incident, PO Velez was assigned to uniformed foot patrol with PO Beauchamp and PO

Feliciano from 6:00 p.m. to 2:35 a.m.

Memo Book (encl. 20A-C)

At 12:20 a.m., one male was stopped at 45 Rutgers Street. At 12:30 a.m., PO Beauchamp made three arrests.

Testimony

PO Velez was interviewed at the CCRB on March 26, 2010 (encl. 21A-C). § 87(2)(g)

§ 87(2)(b) Inconsistencies and additions are summarized below.

§ 87(2)(b) shoved PO Velez before he was handcuffed. When PO Velez first saw § 87(2)(b) fighting with PO Feliciano, both individuals were falling to the ground. § 87(2)(b) was slurring his speech and smelled of alcohol. PO Velez then attempted to assist PO Feliciano in restraining § 87(2)(b). Along with PO Feliciano, PO Velez was struggling with § 87(2)(b) on the ground when backup arrived. PO Velez never struck or saw any officer striking any civilian and never saw any civilian striking any officer. He denied that any officer made the alleged threats of arrest and did not see § 87(2)(b)'s handcuffs being tightened. He did not witness the altercation in the stationhouse.

Subject Officer: LT. THOMAS BUZZITA

- *Lt. Buzzita is a § 87(2)(b)-old white male who is 6'2" tall, weighs 235 lbs and has a bald head and brown hair.*
- *On the date of the incident, Lt. Buzzita worked in uniform as the HBM IRT patrol supervisor from 6:00 p.m. to 2:35 a.m. with PO Peterson.*

Memo Book (encl. 28A-C)

On September 5, 2009, at 12:32 a.m., PO Beauchamp arrested three individuals. At 12:35 a.m., Lt. Buzzita transported one male Hispanic back to PSA 4. The prisoner vomited in the car and attempted to spit at Lt. Buzzita and his operator.

Testimony

Lt. Buzzita was interviewed at the CCRB on May 23, 2010 (encl. 29A-C). On September 5, 2009, at approximately 12:20 a.m., Lt. Buzzita responded to a request for backup at 45 Rutgers Street. When he arrived five to ten minutes later, he saw 15-20 officers and 15-20 civilians on the scene. Three individuals were already handcuffed face down on the ground. Of the officers present, Lt. Buzzita could identify only PO Beauchamp, PO Feliciano and PO Velez. Because the crowd was verbally threatening the officers, Lt. Buzzita was concerned about a possible riot and ordered officers present to take the prisoners from the scene immediately. When Lt. Buzzita returned to his RMP, § 87(2)(b) who was slurring his speech and appeared to be intoxicated, was already in the back seat. As Lt. Buzzita and PO Polacik drove § 87(2)(b) to PSA 4, § 87(2)(b) vomited in the RMP and attempted to spit on Lt. Buzzita. When Lt. Buzzita arrived at the stationhouse, PO Polacik went back to the RMP to clean the vomit out and § 87(2)(b) was processed. Shortly thereafter, while Lt. Buzzita was at the desk, he heard sounds of a struggle coming from the holding cell area. He gave his gun to an officer and ran into the holding cells, where he saw POs Jacquez and Jackson holding § 87(2)(b)'s arms and legs and attempted to restrain him. Sgt. Goode ran into the cell with a taser but did not use it because POs Jackson and Jacquez were in the way. Lt. Buzzita then moved toward § 87(2)(b) and placed one of his feet on § 87(2)(b)'s right rear shoulder blade in an effort to hold him in place. Within 20 to 30 seconds, POs Jacquez and Jackson had § 87(2)(b) handcuffed. Lt. Buzzita explained that he did not use his hands to hold § 87(2)(b) because, as § 87(2)(b) had already spat at him and was covered in vomit, he wished to avoid getting vomit on himself. Lt. Buzzita never kicked or stomped on § 87(2)(b) and never made contact with his neck. He never saw any officer using any force, threatening anyone with arrest or tightening anyone's handcuffs at 45 Rutgers Street.

Witness Officer: PO FRANCISCO JACQUEZ

- *PO Jacquez is a § 87(2)(b)-old Hispanic male who is 5'9" tall, weighs 170 lbs and has black hair and brown eyes.*
- *On the date of the incident, PO Jacquez was assigned to uniformed bike patrol with PO Jackson and PO San Juan from 6:00 p.m. to 2:35 a.m.*

Memo Book (encl. 24A-D)

PO Jacquez did not have any entries regarding this incident.

Testimony

PO Jacquez was interviewed at the CCRB on June 4, 2010 (encl. 25A-B). § 87(2)(g)

While the incident at 45 Rutgers Street was occurring, PO Jacquez was inside the PSA 4 stationhouse processing an unrelated arrest. Shortly after § 87(2)(b) was escorted into the stationhouse, an officer who PO Jacquez could not recall the identity of ordered him and PO Jackson to escort § 87(2)(b) from the front desk to a holding cell and search him. In the holding cell, § 87(2)(b) threw his shoes at PO Jackson's face and then punched and spat at PO Jackson and PO Jacquez. Shortly after the officers grabbed § 87(2)(b) and moved him to the ground in an attempt to restrain him, multiple officers (PO Jacquez could not recall who) entered the cell and attempted to restrain § 87(2)(b). PO Jacquez immediately left the cell area and did not witness how § 87(2)(b) came to be under control. He did not see any officer strike § 87(2)(b).

Witness Officer: PO ESSENCE JACKSON

- *PO Jackson is a § 87(2)(b)-old black male who is 5'7" tall, weighs 185 lbs and has brown hair and brown eyes.*
- *On the date of the incident, PO Jackson was assigned to uniformed bike patrol with PO Jacquez from 6:00 p.m. to 2:35 a.m.*

Memo Book (encl. 26A-D)

PO Jackson did not have any memo book entries regarding this incident.

Testimony

PO Jackson was interviewed at the CCRB on May 6, 2010 (encl. 27A-B). § 87(2)(g)

PO Jackson added that although the shoes that § 87(2)(b) threw both struck him, he was not injured. He denied that any officer struck § 87(2)(b) or stomped on his neck during the struggle in the cell.

Subject Officer: PO THOMAS POLACIK

- *PO Polacik is a § 87(2)(b)-old white male who is 6'5" tall, weighs 160 lbs and has black hair and green eyes.*
- *On the date of the incident, PO Polacik worked in uniform as Lt. Buzzita's vehicle operator from 6:00 p.m. to 2:34 a.m.*

Memo Book (encl. 30A-B)

On September 5, 2009, at 12:05 a.m., PO Polacik arrived in LaGuardia Park. At 12:40 a.m., he transported one male perpetrator to PSA 4, which he arrived at at 12:48 a.m. At 12:50 a.m., he began cleaning vomit out of his RMP. At 1:45 a.m., he escorted one male perpetrator to § 87(2)(b) for intoxication.

Testimony

PO Polacik was interviewed at the CCRB on April 15, 2010 (encl. 31A-B). § 87(2)(g)

§ 87(2)(b) Additions and inconsistencies are noted below.

Shortly after PO Polacik arrived at 45 Rutgers Street and exited his vehicle, he assisted PO Feliciano in escorting § 87(2)(b) to the RMP. He did not tighten § 87(2)(b)'s handcuffs, strike § 87(2)(b) or see any officer do either of these things. Upon arriving at the PSA 4 stationhouse, PO Polacik briefly entered the stationhouse to retrieve a towel and then returned to his RMP, where he remained for the next hour cleaning § 87(2)(b)'s vomit out of the car. He then received a call to take § 87(2)(b) to the hospital, which he did without entering the stationhouse again. He did not witness any interactions between § 87(2)(b) and any officer in the stationhouse.

Witness Officer: SGT TIMOTHY GOODE

- *Sgt. Goode is a § 87(2)(b)-old white male who is 5'7" tall, weighs 215 lbs and is bald with brown eyes*
- *According to Sgt. Goode's memo book, he worked in uniform as the PSA 4 patrol supervisor from 4:45 p.m. to 11:47 p.m. and then as the PSA 4 desk sergeant from 11:05 p.m. to 8:05 a.m.*

Memo Book (encl. 32A-C)

Sgt. Goode did not have any entries regarding this incident.

Testimony

Sgt. Goode was interviewed at the CCRB on July 30, 2010 (encl. 33A-B). He was on desk duty at the time of the incident at 45 Rutgers Street and did not respond to it. Although he recalled being present when § 87(2)(b) and § 87(2)(b) were brought into the stationhouse, he did not witness and had no knowledge of any altercation in the holding cell area.

Witness Officer: SGT JACK NG

- *Sgt. Ng is a § 87(2)(b)-old Asian male who is 6'1" tall, weighs 245 lbs and has black hair and brown eyes.*
- *On the date of the incident, Sgt. Ng worked in uniform as the 7th Precinct patrol supervisor with PO Peterson from 11:05 p.m. to 8:02 a.m.*

Memo Book (encl. 34A-C)

At 12:30 a.m., Sgt. Ng arrived at Rutgers Street and noted that three individuals were under arrest.

Testimony

Sgt. Ng was interviewed at the CCRB on July 29, 2010 (encl. 35A-B). When Sgt. Ng responded to the incident at 45 Rutgers Street, the incident had resolved and several individuals were in handcuffs. In addition to officers from PSA 4, HBM IRT and Patrol Borough Manhattan South, three or four sector vehicles from the 7th Precinct were present. Sgt. Ng did not see any officer use force, threaten anyone with arrest or tighten anyone's handcuffs. He left the scene while the arrested individuals were still present.

Medical Records (encl. 36A-I)

§ 87(2)(b) arrived at § 87(2)(b) on September 5, 2009 at 1:56 a.m. He was escorted by PO Polacik. At the time, he was "agitated, confused, crying...disoriented" and intoxicated. He had a bruise the size of a quarter on his right abdomen and a small abrasion on his left eye. An X-Ray of his cervical spine revealed no fracture or swelling. He was diagnosed with a neck strain and released at 4:51 a.m., at which time he rated his pain a "1" on a scale of 1-10.

NYPD Documents

SPRINT S00466 (encl. 37A-B)

Officers from HBM IRT, the 7th Precinct and Patrol Borough Manhattan South all responded to the incident.

PSA 4 Tour 1 Roll Call for September 5, 2009 (encl. 39A)

Sgt. Goode was the desk sergeant at the time that Lt. Buzzita allegedly stomped on § 87(2)(b) inside the PSA 4 holding cell.

7th Precinct Tour 1 Roll Call for September 5, 2009 (encl. 42A)

Sgt. Jack Ng was the 7th Precinct patrol supervisor at the time of the incident.

PSA 4 Command Log and Prisoner Holding Pen Roster (encl. 40A-41B)

§ 87(2)(b) and § 87(2)(b) were all in holding cells when the altercation between Lt. Buzzita and § 87(2)(b) took place.

Arrest Photographs (encl. 49H-I)

The arrest photographs for § 87(2)(b) and § 87(2)(b) were not available.

Summons/Arrest for Incident and Disposition

- § 87(2)(b)
- There is no record of any court proceedings for the arrests of § 87(2)(b) or § 87(2)(b) (encl. 44A-B).

Status of Civil Proceedings

- Neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with the City of New York as of October 22, 2010 with regard to the incident (encl. 45A).

Civilians' Criminal Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]

Civilians' CCRB Histories

- This is the first CCRB complaint filed by both § 87(2)(b) and § 87(2)(b) (encl. 5A-6A).

Subject Officers' CCRB Histories

- PO Audeliz Beauchamp has been a member of the service for three years and there are no substantiated CCRB allegations against her (encl. 1A).

- PO Orvin Feliciano has been a member of the service for three years and there are two substantiated CCRB allegations against him: in case 200906048, an allegation that PO Feliciano improperly questioned an individual was substantiated and he received no charges; in case 200909919, an allegation that PO Feliciano improperly stopped an individual was substantiated and he received charges (encl. 2A).
- PO Victor Velez has been a member of the service for three years and there are no substantiated CCRB allegations against him (encl. 3A).
- Lt. Thomas Buzzita has been a member of the service for 17 years and there are no substantiated CCRB allegations against him (encl. 4A).

Conclusion

Identification of Subject Officers

- POs Velez and Feliciano confirmed that they used force to restrain § 87(2)(b) § 87(2)(g)
- § 87(2)(b) provided only vague descriptions of the officers who allegedly used force against him. § 87(2)(b) provided vague and inconsistent descriptions of the officers who allegedly used force against him. All testimonies indicate that numerous officers were present during the incident and NYPD documentation indicates that at least three commands responded. The fact that this incident occurred between Tours 2 and 3 effectively doubles the list of potential subject officers. § 87(2)(g)
- § 87(2)(b) alleged that a uniformed Hispanic male who he could not describe further punched him in the stomach before escorting him to PSA 4. Lt. Buzzita and PO Polacik's testimonies and memo books indicate that they were the officers who drove § 87(2)(b) to the stationhouse. Both of these officers denied this allegation. § 87(2)(b) indicated that the officer who later brought him to the hospital, identified by the CCRB as PO Polacik, was not the officer who punched him. However, Lt. Buzzita is a white male who could not easily be mistaken for a Hispanic. § 87(2)(g)
- § 87(2)(g)

Investigative Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(b) stated that, as he approached officers who were involved in an intense physical altercation with § 87(2)(b) officers threatened to arrest him if he did not move from the vicinity. § 87(2)(g)

Allegation A: In the vicinity of 45 Rutgers Street in Manhattan, PO Orvin Feliciano used force against

§ 87(2)(b)

Allegation B: In the vicinity of 45 Rutgers Street in Manhattan, PO Victor Velez used force against

§ 87(2)(b)

§ 87(2)(b) alleged that, after PO Beauchamp called for backup, multiple waves of numerous responding officers who he could provide only vague descriptions of punched, kicked and kned him. Of the officers who were interviewed, only PO Beauchamp, PO Velez and PO Feliciano testified that they were present when any force was used against § 87(2)(b) § 87(2)(g)

§ 87(2)(g) PO Feliciano testified that, in an attempt to interfere with the arrest of § 87(2)(b) § 87(2)(b) suddenly lunged at PO Feliciano and grabbed his jacket, causing both individuals to fall to the ground, at which point PO Feliciano attempted to handcuff § 87(2)(b) PO Velez confirmed that he assisted PO Feliciano in attempting to restrain § 87(2)(b) at this time. Both officers denied that they or any additional responding officers ever struck § 87(2)(b) PO Velez further denied seeing § 87(2)(b) strike any officer. Although PO Beauchamp testified that she did not witness portions of the struggle to restrain § 87(2)(b) she did see § 87(2)(b) and her partners attempting to strike one another before they moved to the ground, at which point § 87(2)(b) continued to attempt to strike the officers while they struggled to restrain him.

§ 87(2)(g)

While § 87(2)(b) alleged that the officers who initially assaulted him arrived in an RMP, NYPD documentation confirms that POs Feliciano and Velez were on foot at the time. Furthermore, § 87(2)(b) made allegations during his sworn statement that he later not only withdrew but denied having made.

§ 87(2)(g)

Allegation C: In the vicinity of 45 Rutgers Street in Manhattan, officers used force against § 87(2)(b) and § 87(2)(b)

Allegation D: In the vicinity of 45 Rutgers Street in Manhattan, an officer tightened § 87(2)(b)'s handcuffs.

§ 87(2)(g)

Allegation E: Inside the PSA 4 stationhouse, Lieutenant Thomas Buzzita used force against § 87(2)(b)

§ 87(2)(b) alleged that, as he was complying with PO Jackson and PO Jacquez's orders to remove his shoes, Lt. Buzzita suddenly entered his holding cell and, as PO Beauchamp looked on, stomped on § 87(2)(b)'s neck while officers held him down. Lt. Buzzita and POs Jackson, Jacquez and PO Beauchamp all denied that Lt. Buzzita did this. There were no civilian witnesses to this altercation. Although Lt. Buzzita acknowledged that he placed his foot on § 87(2)(b)'s back to hold him in place, he asserted that this was not a strike and that he never made contact with § 87(2)(b)'s neck. Lt. Buzzita further explained that he used his foot instead of his hands so as to avoid coming into contact with § 87(2)(b)'s vomit.

§ 87(2)(g)

Team: _____

:

Investigator: _____	_____	_____
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date